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No. 81-2186

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1982

M. R. YUDOFSKY & ASSOCIATES a Kentucky Partnership, and
MORRIS R. YUDOFSKY & ASSOCIATES, another Kentucky Partnership, - - Petitioners,

versus

COMMONWEALTH OF KENTUCKY, DEPARTMENT OF FINANCE, - - Respondent.

Petition for a Writ of Certiorari to the Court of Appeals of Kentucky

REPLY BRIEF FOR PETITIONERS

EDWIN L. COHEN
COHEN & COHEN
335 West Market Street
Louisville, Kentucky 40202
(502) 584-8177
Counsel for Petitioners

July 2, 1982

WESTERFIELD-BONTE CO., 610 W. KENTUCKY—P.O. BOX 3591, LOUISVILLE, KY.

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MORRIS R. YUDOFSKY & ASSOCIATES, another Kentucky Partnership, - *Petitioners,*

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COMMONWEALTH OF KENTUCKY, DEPARTMENT OF FINANCE, - - *Respondent.*

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF KENTUCKY

REPLY BRIEF FOR PETITIONERS

May it please the Court:

The Respondent made an unfair and improper argument. It made a misleading statement of fact, Page 2 of its Brief in Opposition, namely:

> ". . . and that the Kentucky Supreme Court found no merit in the Petitioners' Motion for Discretionary Review . . . ," and

made an improper argument on Page 4 of its Brief, namely:

"Their Motion for Discretionary Review by the Supreme Court of Kentucky was denied by that Court without comment indicating to the Respondent that the Kentucky Supreme Court found no merit in the Petitioners' claims nor found the Kentucky law so onerous that it needed review and alteration."

To the contrary, the Kentucky Rules of Civil Procedure, *76.20(9)(a)* states:

"(9) Disposition of Motion.

(a) If the motion is denied the decision shall stand affirmed, and if a supersedeas bond has been executed, damages for delay shall be recoverable pursuant to KRS Chapter 26A. *The denial of a motion for discretionary review does not indicate approval of the opinion or order sought to be reviewed and shall not be cited as connoting such approval.*" (emphasis added)

Respectfully submitted,

EDWIN L. COHEN
COHEN & COHEN
335 West Market Street
Louisville, Kentucky 40202
(502) 584-8177
Counsel for Petitioners

July 2, 1982